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TABLE GRAPE MARKETING ORDERS

SEPTEMBER 24 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 505]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 505) to improve the quality of table grapes for marketing in the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 505 would amend section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e-1), to require that table grapes imported into the United States, during the time that a Federal marketing order is in effect for table grapes, meet the same standards for grade, size, quality, and maturity as are applicable to domestic table grapes subject to the market order.

COMMITTEE AMENDMENT

The Committee amendment makes a technical change to correct the name of the Agricultural Marketing Agreement Act of 1937.

PURPOSE AND NEED FOR THE LEGISLATION

Marketing agreement and order programs are authorized by the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937. Marketing agreements and orders help to stabilize prices and benefit producers and consumers by establishing and maintaining orderly marketing conditions.

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There are two Federal marketing orders for domestically grown table grapes. One marketing order regulates the handling of grapes grown in the desert area (Coachella Valley) of California. The program became effective August 1, 1980, with 1981 the first season in which the order's provisions were in effect. Harvest usually begins in May and continues into mid-August. From 1966 to 1980, fresh market grapes grown in the Coachella Valley were regulated under a California State marketing order.

The Federal marketing order contains provisions for grade, size, pack and container, shipping holidays, and research and development. Among other things, grapes shipped under the order must meet the U.S. No. 1 Table grade and certain minimum maturity standards, by variety, which identify the percent of minimum soluble solids (measure of sugar content) that range between 15 to 16 percent depending on the variety.

Another Federal marketing order regulates the handling of tokay grapes grown in San Joaquin County, California. The marketing season generally extends from August 15 through November. The marketing order contains provisions for grade, size, pack and container, flow to market, research and development, and advertising. Among other things, grapes shipped under the order must meet the U.S. No. 1 Table grade and a 15.5 percent minimum soluble solids standard.

Under current law, quality standards imposed on domestic table grapes under Federal marketing orders are not applicable to imported grapes. As a result, importers are not subject to the same restrictions applicable to the marketing of immature domestic table grapes.

Unlike some fresh fruits and vegetables, table grapes do not continue to mature once they have been cut from the vine. Grapes which have been picked too early generally have a lower sugar content and therefore a relatively sour taste. It is nearly impossible, however, to distinguish mature grapes from sour, immature grapes on the supermarket shelf. Because prices for table grapes are usually highest during the first few weeks of the marketing season, the similarity in appearance may provide an incentive for some producers to rush their grapes to market before they are ripe. Consumer disappointment is caused by these high priced but sour tasting table grapes, resulting in a reduction in demand.

S. 505 would remedy this situation by amending section 8e of the Agricultural Marketing Agreement Act to require that imported table grapes meet the same size, grade, quality, and maturity standards applicable to domestic table grapes shipped under existing Federal marketing orders. This would standardize the treatment of imported and domestic table grapes and preclude the marketing of immature grapes in U.S. markets.

Domestic quality requirements established by Federal marketing orders already apply to imports of 13 of the 17 other fresh fruits, vegetables, and specialty crops included in section 8e. These include tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocadoes, limes, grapefruit, Irish potatoes, oranges, onions, walnuts, dates, and filberts. The other four commodities listed in section 8e—mangoes, green peppers, cucumbers, and eggplants—are not regulated by Federal marketing orders. By requiring imported table grapes to meet the same grade and maturity standards as domestic table grapes, S. 505 would ensure U.S. consumers of consistent quality

produce without imposing unreasonable economic burdens on foreign producers. The bill would protect the interests of both domestic and foreign producers by ensuring the marketing of a standardized product.

The bill imposes no quotas or other restrictions on the volume of table grapes that may be imported. It merely requires that these grapes meet applicable minimum standards under the Federal marketing orders at the time of inspection

In practice, the bill would primarily affect the table grapes imported from Mexico between the months of May and July. Although the volume of Mexican imports has steadily increased over the last 5 years, the quality appears to be inconsistent. Department of Agriculture statistics show that in 1980, 83 percent of the imported table grapes were able to meet minimum U.S. No. 1 quality standards. However, in 1981, only 60 percent of the imported table grapes were able to meet the U.S. No. 1 quality standard. Over time, there is every reason to believe that a consistently higher percentage of Mexican grapes will meet this standard. The Committee expects that the Department of Agriculture will continue existing inspection procedures or establish new procedures so as to minimize the possible inconvenience to importers and foreign exporters stemming from the application of domestic standards to imported table grapes.

Committee Consideration

Senator Hayakawa introduced S. 505, to improve the quality of table grapes for marketing in the United States. Senator Hayakawa was joined by Senators Huddleston, Laxalt, and Cranston in sponsoring the bill.

Senator Cochran, Chairman of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, held a hearing on S. 505 on June 17, 1982. In opening remarks, Senator Cochran stated that the basic effect of S. 505 would be to subject grapes imported during the months of May through July to the same quality standards applicable to grapes marketed under the Coachella Valley marketing order. Senator Cochran stated that Chile and Mexico are the largest suppliers of foreign grapes to the United States and that the principal impact of the bill would be with respect to grapes imported from Mexico. The majority of grapes imported into the United States from Chile enter before May.

Senator Hayakawa appeared before the subcommittee and testified in support of the bill. Senator Hayakawa stated that the limited marketing season for most fruits and the highly competitive nature of these markets provide strong incentives to move produce to market as quickly and as early in the season as possible. He also pointed out that because grapes do not continue to ripen once they have been harvested, immature grapes tend to be less sweet than fully mature ones. Because color and other sight characteristics are indistinguishable, the consumer has difficulty in distinguishing fully mature grapes on the basis of appearance. Enactment of S. 505 would avoid erosion of consumer confidence in the standardized quality of table grapes.

Senator Hayakawa testified that the large majority of grapes imported from Mexico are able to meet the U.S. quality standards. He

pointed out that according to U.S. Department of Agriculture figures, about 80 percent of the Mexican grapes undergoing voluntary inspection by USDA at border points met U.S. No. 1 standards during 1980. The majority of those grapes failing to meet the U.S. No. 1 standard entered the United States during the first 6 weeks of the season.

Senator Hayakawa also testified that the General Agreement on Tariffs and Trade (GATT) recognizes the right of participating nations to adopt produce standards such as marketing orders.

Senator Cranston, testifying in support of the bill, stated that the unanimous vote in 1980 on the part of the Coachella Valley growers to upgrade the State marketing order to a Federal marketing order is indicative of the trong support for this program. A crucial part of the program is the quality standard for maturity or sweetness since maturity is a key element in the marketability of table grapes. He testified that S. 505 would in no way limit the amount of foreign grapes imported into the United States. The bill would only ensure fair competition by applying the domestic quality standards to imported grapes. Finally, Senator Cranston indicated that the bill has strong support from such food industry groups as the Food Marketing Institue, the United Fresh Fruit and Vegetable Association, the California Grape and Tree Fruit League, and the Western Growers Association.

Senator Edward Zorinsky, a member of the Committee on Agriculture, Nutrition, and Forestry, and Congressman Jerry Lewis, sponsor of similar legislation (H.R. 1852) in the House of Representatives, also submitted testimony in support of the bill.

Charles Brader, Director of the Fruit and Vegetable Division, Agricultural Marketing Service, and Gilbert Sindelar, Director of the Horticultural and Tropical Products Division, Foreign Agricultural Service, both of the Department of Agriculture, appeared in order to respond to technical questions. Senator Cochran posed questions to them concerning the operation of section 8e of the Agricultural Adjustment Act, importer procedures, and inspections at border crossings.

Messers. Tom DiMare and Richard Peters and Mrs. Keene Larsen offered testimony on behalf of the Desert Grape Growers Association. Mr. Peters stated that the grapes grown in the Coachella Valley must conform to the quality standards of the Federal marketing order before they may be marketed. These quality standards are designed to ensure availability of high quality produce at reasonable prices and thereby benefit both consumers and producers. Because these same quality standards do not apply to imported grapes, the quality of foreign grapes can vary considerably. The experience of the desert grape growers has been that this variability in quality, particularly during the early part of the domestic season, can significantly affect subsequent consumer demand for table grapes. Permitting the continued access of poor quality grapes which can dampen consumer demand could seriously undermine many of the important consumer and market benefits associated with the Federal marketing order.

Mr. Peters stated that the intent of S. 505 was to remedy this inequitable situation by requiring imported grapes to meet the same quality standards established under the Federal order. He reiterated the comments made by Senator Hayakawa in his testimony regarding

the fact that grapes do not continue to ripen once they are cut from the vine, and the average consumer is not in a position to judge the maturity, and thus the sweetness, in the supermarket. A consumer who purchases a bunch of grapes that are sour is likely to stop buying table grapes for a period of time. As table grapes are not identifiable by brand name, all grapes are subject to similar consumer reactions. Enactment of S. 505 would prevent foreign producers from "jumping" the U.S. market with immature grapes to obtain windfall profits during the first weeks of the season when prices are normally at their peak.

Mr. Peters disagreed with the charge that the Coachella Valleys growers would attempt to use the Federal marketing order to manipulate quality standards in the future. According to Mr. Peters, Mexican and U.S. grapes are virtually identical. Hence, it would be extremely difficult to set standards aimed at excluding imports. Moreover, the Secretary of Agriculture must approve any quality changes under the marketing order.

Mrs. Larson effectively demonstrated that the untrained eye cannot differentiate between fully mature grapes and grapes that have not reached full maturity. She passed bunches of mature and immature grapes around the hearing room to demonstrate the sour taste of the immature grapes.

Mr. Albert M. Farnsworth from Sonora, Mexico, accompanied by Mr. Clifford Stromberg of the law firm of Arnold and Porter, offered testimony on behalf of the Mexican table grape growers. Mr. Farnsworth testified that S. 505 was both unnecessary and an attempt to limit foreign competition in the U.S. table grape market. Mr. Farnsworth further testified that Mexican exporters were unaware of any evidence indicating that the quality of Mexican grapes imported into the United States was below the quality of comparable grapes produced in the United States.

Mr. Farnsworth challenged the argument that Mexican grapes have caused negative consumer reaction. He testified that supermarket chains, importers and wholesalers have continued to purchase Mexican table grapes in large quantities over the years. He further testified that the direct result of the passage of S. 505 would be higher prices to U.S. consumers of table grapes and the imposition of unwarranted costs on Mexican grape exporters stemming from the additional costs inherent in mandatory inspection and the loss from grapes not meeting the standards. Lastly, he testified that, should S. 505 become law, it would be viewed in Mexico as a nontariff trade barrier.

Also testifying in opposition to S. 505, was Mr. Dennis N. Icardi, a representative of Blue Anchor, Inc., an importer and wholesaler of Mexico table grapes. Mr. Icardi testified that S. 505 was an attempt by the Coachella Valley grape growers to limit the importation of grapes from Mexico. Mr. Icardi made the point that should U.S. shipments fail to pass inspection, the grapes could be repacked at the U.S. shipping point. By comparison, should Mexican table grapes fail to pass inspection, the grower has few alternatives, as he may be far from his shipping point or a place where he could repack his load.

On August 9, 1982, S. 505 was favorably polled from the Subcommittee to the full Committee.

On September 15, 1982, the Committee met in open session to consider S. 505. The Committee made a technical amendment to the bill to correct the reference to the Agricultural Marketing Agreement Act of 1937 and agreed, by voice vote, to report S. 505 to the Senate.

Section-by-Section Analysis

The legislation would amend section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1) by inserting the words "table grapes," after the word "filberts," in the first sentence of section 8e.

Administration Views

As of the printing of this report, the Committee has received no communication setting forth the Administration's position on S. 505.

Cost Estimate

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that enactment of S. 505 will result in no significant cost to the Federal Government.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 21, 1982.

Hon. Jesse A. Helms,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 505, a bill to improve the quality of table grapes for marketing in the United States, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, September 15, 1982.

This bill would subject imported table grapes to the same marketing order quality regulations as domestically produced table grapes.

Based on this review, it is expected that no significant cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

Raymond C. Scheppach
(For Alice M. Rivlin, Director).

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 505.

NUMBER OF INDIVIDUALS AND BUSINESSES AFFECTED

S. 505 would amend section 8e of the Agricultural Marketing Agreement Act of 1937 to make its provisions applicable to imported table

grapes. Under section 8e, whenever grade, size, quality, or maturity requirements are imposed upon domestic shipments of specified commodities under a Federal marketing order, imports of those commodities must meet the same or comparable requirements. Approximately 50 individuals and firms who import Chilean and Mexican fresh table grapes would be the principal groups impacted. Secondary impact would be on an estimated 75 growers and 14 handlers of California desert grapes as well as consumers.

There are two Federal marketing orders for domestically grown table grapes. Marketing Order No. 925 regulates the handling of grapes grown in the desert area (Coachella Valley) of California. The program became effective August 1, 1980, with 1981 the first season in which the order's provisions were in effect. Harvest usually begins in May and continues into mid-August. Marketing Order No. 926 regulates the handling of tokay grapes grown in San Joaquin County, California. The marketing season generally extends from August 15 through November.

Import regulations resulting from enactment of S. 505 would be in effect from May through November, and be based upon standards imposed upon Coachella Valley grown grapes until August 15 and tokay grapes from August 15 through November.

Coachella Valley represents about 60 percent of the early supply of fresh grapes, but only 10 percent of California's fresh grape shipments (4.4 million lugs in 1980). Tokay grapes grown in San Joaquin County average about 140,000 tons annually, with 16,000 tons being shipped to fresh market. This represents 8 percent of the fresh grape shipments during the August–November period which is covered by the marketing order, or roughly 3 percent of the State's total annual fresh shipments.

ECONOMIC IMPACT

Each importer of table grapes would be required to have all shipments of imported grapes inspected by the Federal or Federal-State Inspection Service. Current inspection fees amount to approximately $0.0006 per pound for Federal inspection, plus a small fee for issuance of an inspection certificate. Thus, the total additional cost would not impose any significant economic hardship on importers or consumers. Currently, most imports of Chilean grapes are inspected on a voluntary basis so that the enactment of S. 505 would not impose any additional costs on these importers. Domestic and foreign growers could benefit, if the proposed legislation is enacted, from consistently higher quality grapes entering the U.S. market resulting in stronger demand and prices.

PERSONAL PRIVACY IMPACT

The bill would not have any impact on the personal privacy of the individuals affected.

PAPERWORK IMPACT

The additional bookkeeping and paperwork costs for importers would not be significant. No forms are required relative to the inspection. The application for inspection can be made by telephone. Thus, the inspection certificate is the only additional paperwork that would

result and there would be no requirement that importers maintain file copies of such certificates.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

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Agricultural Adjustment Act, as Reenacted and Amended by the Agricultural Marketing Agreement Act of 1937, as Amended

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RESTRICTIONS ON IMPORTED COMMODITIES

Sec. 8e. Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of this Act contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocadoes, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, *table grapes*, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with

respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 8a(5) of this Act or, upon conviction, a penalty in the amount prescribed in section 8c(14) of this Act, or to both such forfeiture and penalty.

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